

this paragraph. Recomputation of rates due to changes in the maximum annual pension rate or rate of income following the initial date of entitlement are subject to the provisions of paragraph (b) of this section.

(b) *Running awards*—(1) *Change in maximum annual pension rate*. Whenever there is change in a beneficiary's applicable maximum annual pension rate, the monthly rate of pension payable shall be computed by reducing the new applicable maximum annual pension rate by the beneficiary's countable income on the effective date of the change in the applicable maximum annual pension rate, and dividing the remainder by 12. Effective June 1, 1983, the provisions of § 3.29(b) apply to this paragraph.

(2) *Change in amount of income*. Whenever there is a change in a beneficiary's amount of countable income the monthly rate of pension payable shall be computed by reducing the beneficiary's applicable maximum annual pension rate by the beneficiary's new amount of countable income on the effective date of the change in the amount of income, and dividing the remainder by 12. Effective June 1, 1983, the provisions of § 3.29(b) apply to this paragraph.

(c) *Nonrecurring income*. The amount of any nonrecurring countable income (e.g. an inheritance) received by a beneficiary shall be added to the beneficiary's annual rate of income for a 12-month annualization period commencing on the effective date on which the nonrecurring income is countable.

(Authority: 38 U.S.C. 501)

(d) *Recurring and irregular income*. The amount of recurring and irregular income anticipated or received by a beneficiary shall be added to determine the beneficiary's annual rate of income for a 12-month annualization period commencing at the beginning of the 12-month annualization, subject to the provisions of § 3.660(a)(2) of this chapter.

[44 FR 45936, Aug. 6, 1979, as amended at 48 FR 34472, July 29, 1983; 57 FR 59300, Dec. 15, 1992]

§ 3.274 Relationship of net worth to pension entitlement.

(a) *Veteran*. Pension shall be denied or discontinued when the corpus of the estate of the veteran, and of the veteran's spouse, are such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance.

(Authority: 38 U.S.C. 1522(a))

(b) *Increased pension payable to a veteran for a child*. Increased pension payable to a veteran on account of a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances including consideration of the veteran's and spouse's income and the income of the veteran's child or children, it is reasonable that some part of the corpus of such child's estate be consumed for the child's maintenance.

(Authority: 38 U.S.C. 1522(b))

(c) *Surviving spouse*. Pension payable to a surviving spouse shall be denied or discontinued when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the surviving spouse's income and the income of any child for whom the surviving spouse is receiving pension, it is reasonable that some part of the corpus of the surviving spouse's estate be consumed for the surviving spouse's maintenance.

(Authority: 38 U.S.C. 1543(a)(1))

(d) *Increased pension payable to a surviving spouse for a child*. Increased pension payable to a surviving spouse on account of a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the surviving spouse and child and the income of any other child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the

§ 3.275

corpus of the child's estate be consumed for the maintenance of the child.

(Authority: 38 U.S.C. 1543(a)(2))

(e) *Child*. Pension payable to a child shall be denied or discontinued when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the child, the income of any person with whom the child is residing who is legally responsible for such child's support, and the corpus of estate of such person, it is reasonable that some part of the corpus of such estates be consumed for the child's maintenance.

(Authority: 38 U.S.C. 1543(b))

§ 3.275 Criteria for evaluating net worth.

(a) *General*. The following rules are for application in determining the corpus of estate or net worth of a veteran, surviving spouse or child under § 3.274.

(b) *Definition*. The terms *corpus of estate* and *net worth* mean the market value, less mortgages or other encumbrances, of all real and personal property owned by the claimant, except the claimant's dwelling (single family unit), including a reasonable lot area, and personal effects suitable to and consistent with the claimant's reasonable mode of life.

(c) *Ownership*. See § 3.271(d).

(d) *Evaluation*. In determining whether some part of the claimant's estate (or combined estates under § 3.274 (a) and (e)) should be consumed for the claimant's maintenance, consideration will be given to the amount of the claimant's income together with the following: Whether the property can be readily converted into cash at no substantial sacrifice; life expectancy; number of dependents who meet the definition of *member of the family* (the definition contained in § 3.250(b)(2) is applicable to the improved pension program); potential rate of depletion, including unusual medical expenses under the principles outlined in § 3.272(g) for the claimant and the claimant's dependents.

(e) *Educational expenses*. There shall be excluded from the corpus of estate or net worth of a child reasonable

38 CFR Ch. I (7-1-01 Edition)

amounts for actual or prospective educational or vocational expenses. The amount so excluded shall not be such as to provide for education or training beyond age 23.

(Authority: 38 U.S.C. 501)

(f) *Agent Orange settlement payments*. There shall be excluded from the corpus of the estate or net worth of a claimant any payment made from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the *In re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.). (January 1, 1989)

(Authority: Pub. L. 101-201, 103 Stat. 1795)

(g) *Restitution to individuals of Japanese ancestry*. There shall be excluded from the corpus of estate or net worth of a claimant any payment made as restitution under Public Law 100-383 to individuals of Japanese ancestry who were interned, evacuated, or relocated during the period December 7, 1941, through June 30, 1946, pursuant to any law, Executive order, Presidential proclamation, directive, or other official action respecting these individuals. (August 10, 1988)

(Authority: Sec. 105, Pub. L. 100-383; 102 Stat. 905)

(h) *Radiation Exposure Compensation Act*. There shall be excluded from the corpus of estate or net worth of a claimant any payment made under Section 6 of the Radiation Exposure Compensation Act of 1990.

(Authority: 42 U.S.C. 2210 note)

(i) *Monetary allowance under 38 U.S.C. 1805 for a child suffering from spina bifida who is a child of a Vietnam veteran*. There shall be excluded from the corpus of estate or net worth of a claimant any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran.

(Authority: 38 U.S.C. 1805(d))

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